

REMARKS

The last Office Action has been carefully considered.

It is noted that claims 6-9 are rejected under 35 U.S.C. 102(e) over the U.S. patent to Meier.

Claims 6-9 are also rejected under 35 U.S.C. 102(b) over the international patent document WO 97/04850.

With the present Amendment applicant has canceled claim 6 and submitted claim 10, the broadest claim related to the candle filter element. The retained dependent claims 7, 8 and 9 have been amended to depend directly or indirectly on claim 10. Applicant has also submitted claim 11 which deals with a candle filter including the inventive candle filter element, and claim 12 which depends on it.

It is respectfully submitted that the new features of the present invention which are now defined in claims 10 and 11 are not disclosed in the references and can not be derived from them as a matter of obviousness.

The candle filter element of the present invention as defined in

claim 10 and the candle filter as defined in claim 11 is formed so that a single cavity, or a single hollow chamber is formed between the central tube and the filter element can be seen from Figure 2 of the present application. The filter element is built practically of two tubes, the central tube and the sheath element. Therefore, it is easy to produce and also to be cleaned. The single piece filter element has a surface provided with six lobes each described by semi-circle and extending parallel to the axis of the support body of the filter element or the axis of the central tube. The central tube is removably arranged inside the sheath element.

The filter element disclosed in the prior art does not have the new features of the present invention. While the filter element of the present invention forms a single cavity or a single hollow chamber between the central tube and the filter element, there is no such single cavity or single hollow chamber in the U.S. patent to Meier or the international patent document.

While the filter element of the present invention is composed practically of two tubes including the central tube and the sheath element, the filter element of the references has at least more than seven tubes.

In accordance with the present invention the closed surface of

the sheath extends parallel to the axis of the sheath and to the axis of the central tube. In contrast, in the reference the elements are spirally wound which is a rather complicated in the process to produce such an element.

In accordance with the present invention the central tube is removably arranged inside the sheath element which extends parallel to the central tube. The central element of the prior art is an integral part of the multi-tube filter element. Also, the material of the sheath element of the present invention is very thin and thus less heavy than the arrangement of the prior art.

It is believed to be clear that the new features of the present invention which are now defined in claims 10 and 11 are not disclosed in the references and also can not be derived from them as a matter of obviousness. In order to arrive at the applicant's invention from the references, the references have to be fundamentally modified, by completely changing their constructions, and in particular by redesigning them to include the features of the present invention. It is known that in order to arrive at a claimed invention, by modifying the references the cited art must itself contain a suggestion for such a modification.

This principle has also been consistently upheld by the U.S.

Court of Customs and Patent Appeals which, for example, held in its decision
in re Randol and Redford (165 USPQ 586) that

Prior patents are references only for what they clearly disclose or suggestion; it is not a proper use of a patent as a reference to modify its structure to one which prior art references do not suggest.

Definitely the references do not contain any hint or suggestion for such modifications.

As explained herein above, the present invention provides for the highly advantageous results which can not be accomplished by the construction disclosed in the references. It is well known that in order to support a valid rejection the art must also suggest that it would accomplish applicant's results. This was stated by the Patent Office Board of Appeals, in the case Ex parte Tanaka, Marushima and Takahashi (174 USPQ 38), as follows:

Claims are not rejected on the ground that it would be obvious to one of ordinary skill in the art to rewire prior art devices in order to accomplish applicants' result, since there is no suggestion in prior art that such a result could be accomplished by so modifying prior art devices.

In view of the above presented remarks and amendments, it is believed that claims 10 and 11 should be considered as patentably

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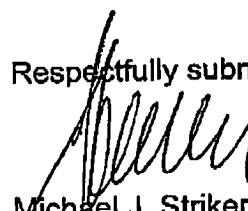
distinguishing over the art and should be allowed.

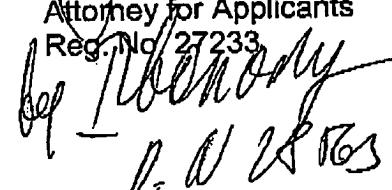
As for the dependent claims, these claims define additional features which in combination with the independent claims also patentably distinguish the present invention from the prior art.

Reconsideration and allowance of the present application is most respectfully requested.

Should the Examiner require or consider it advisable that the specification, claims and/or drawings be further amended or corrected in formal respects in order to place this case in condition for final allowance, then it is respectfully requested that such amendments or corrections be carried out by Examiner's Amendment, and the case be passed to issue. Alternatively, should the Examiner feel that a personal discussion might be helpful in advancing this case to allowance, he is invited to telephone the undersigned (at 631-549-4700).

Respectfully submitted,


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